IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 79 OF 2006

Pratap Sinha @ Sanjay
Shankarrao Chavan ....Applicant.

V/s

The State of Maharashtra ....Respondent.

Mr. S.R. Chitnis, Sr. Advocate with Mr. Amol Patankar
for the applicant.

Mr. S.R. Borulkar, Chief P.P. with Ms. M.M. Deshmukh,
APP for the State.

CORAM: V.M. KANADE, J.

DATE : 5th May, 2006

P.C.:

1. Heard the learned Counsel for the applicant and the learned Chief Public Prosecutor for the State.

2. This is an application filed by the accused against whom the offence initially was registered at Khopoli Police Station vide C.R. No. 57 of 2000 under sections 306, 498A read with section 34 of the Indian Penal Code. The applicant applied for anticipatory bail and the Sessions Court granted anticipatory bail to the applicant by order dated 29/6/2000.

3. Thereafter, a Writ Petition was filed by the complainant in this Court, seeking a direction that the investigation of the said C.R. should be taken over by the State C.I.D., Raigad Unit. The Division Bench directed the C.I.D. to take over the investigation who investigated the said offence and an additional offence was added viz. section 302 of the Indian Penal Code.

4. The application was made for cancellation of the applicant's bail. The applicant also filed an application for anticipatory bail. The Sessions Court rejected his application for anticipatory bail and allowed the application of the Government.

5. The applicant approached this Court for anticipatory bail and also under section 482 for quashing the order passed in favour of the Government dated 4/10/2005 which was passed in Criminal Application No. 566 of 2005.

6. This Court, by order dated 17/11/2005, restored the applicant's Criminal Application and directed the Sessions Court to decide the said Application afresh. The said application was heard and the application for anticipatory bail was allowed. A request was made by

the applicant that his passport may be returned since he was employed in Nairobi, Kenya and he wanted to go to Kenya for limited period. The Sessions Court, however, directed the applicant to move this Court, since the applicant was directed to hand over the passport by this Court to the concerned authorities. The present application is, therefore, filed for return of the passport.

7. The Government also filed an application for cancellation of the bail which was tagged alongwith this application. The complainant also has filed an application for intervention in the application for cancellation of bail and the present application for return of the passport.

8. The application for cancellation of bail was being heard by this Court on couple of occasions. However, due to summer vacation which is going to commence from tomorrow, the application for cancellation of bail had to be adjourned to 12/6/2006. The other Writ Petition filed by the complainant also is adjourned to 12/6/2006.

9. The learned Counsel for the applicant requests that his application for return of passport may be

heard and decided.

10. It is submitted by the learned Counsel appearing on behalf of the applicant in this application that the applicant had co-operated with the Investigating Agency and he was initially employed with Wartsila Ltd. However, the applicant returned to India after he was informed that the application for cancellation of bail was filed against him before the Court of Additional Sessions Judge Raigad, Alibag. It is submitted that the applicant was present throughout the said proceedings in the Court. It is submitted that though the State's application for cancellation of bail was rejected, the passport of the applicant continued to be with the police authorities. It is submitted that the applicant is a permanent resident of Pune. It is submitted that he intends to go to Kenya for limited period of 15 days as he has to collect his belongings and windup his stay at Kenya and square up all the accounts since he had abruptly left Kenya in September, 2005. It is submitted that he will furnish entire itinerary to the Investigating Officer and suitable conditions may be imposed.

11. The learned Counsel for the complainant has vehemently opposed this application. It is submitted

that the application for cancellation of bail has been kept on 12/6/2006. He also invited my attention to the order passed by Shri Justice R.S. Mohite wherein observation has been made by my brother that as long as other application for cancellation of bail is not heard and disposed of, it would not be possible to hear the present application. It is further submitted that since the application for cancellation is kept on 12/6/2006, the applicant can verywell apply after the said application is decided. The learned Counsel also submitted that there was a possibility that the applicant may abscond and may not return back.

12. In my view, since the applicant has abruptly left Nairobi in September, 2005, there is no reason why he should not be allowed to go there for limited period of 15 days subject to certain stringent conditions being imposed. It is an admitted position that the applicant has properties in India. His son is permanently residing in India. It is also on record that show cause notice has been issued by the employer asking the applicant to report to work. Taking into consideration the fact that the anticipatory bail was granted by the Sessions Court pursuant to the directions which were given by this Court, merely because the application for cancellation of bail is

pending that should not be a ground for refusing the applicant from going abroad for limited period.

13. In the result, application is allowed. The applicant shall furnish additional surety of Rs 1 lakh. The applicant shall go to Kenya for limited period of 15 days only. The applicant shall give his complete itinerary to the Investigating Officer including his address, telephone numbers and other particulars. The Investigating Officer shall hand over the passport to the applicant and the applicant shall return the passport to the Investigating Officer after he is returned to India. If the applicant is unable to go to Kenya within two weeks from today, then he shall wait for a period of four weeks and apply again after 15/6/2006. Application is accordingly disposed of.

14. In view of this order Criminal Application No. 134 of 2006 does not survive and the same is disposed of accordingly.

V.M. KANADE, J.